

## PROFESSIONAL LICENSURE DIVISION[645]

### Notice of Intended Action

#### **Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment**

The Board of Physical and Occupational Therapy hereby proposes to amend Chapter 200, “Licensure of Physical Therapists and Physical Therapist Assistants,” Chapter 202, “Discipline for Physical Therapists and Physical Therapist Assistants,” Chapter 206, “Licensure of Occupational Therapists and Occupational Therapy Assistants,” and Chapter 209, “Discipline for Occupational Therapists and Occupational Therapy Assistants,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapters 147, 148A and 148B and 2020 Iowa Acts, House File 2627.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 147.10 and chapters 147, 148 and 148B and 2020 Iowa Acts, House File 2627.

#### *Purpose and Summary*

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board’s licensure rules to include a reference to a rule in the new 645—Chapter 19 (ARC 5367C, IAB 12/30/20), which implements new Iowa Code section 272C.12, and (2) updating the Board’s rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

#### *Fiscal Impact*

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

#### *Jobs Impact*

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

#### *Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Venus Vendoures Walsh  
Professional Licensure Division  
Iowa Department of Public Health  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.242.6529  
Email: [venus.vendoures-walsh@idph.iowa.gov](mailto:venus.vendoures-walsh@idph.iowa.gov)

### *Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

March 16, 2021  
9 to 10 a.m.

Via Webex: [idph.webex.com/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b](https://idph.webex.com/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b)  
Password: GAhMjEu7\*53  
Via telephone: 408.418.9388  
Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 200.2(1) as follows:

**200.2(1)** The applicant shall complete a board-approved application. ~~Application forms may be obtained from the board's website ([www.idph.iowa.gov/licensure](http://www.idph.iowa.gov/licensure)) or directly from the board office, or the applicant may complete the application online at [ibplicense.iowa.gov](http://ibplicense.iowa.gov). All paper applications shall be sent to the Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

ITEM 2. Adopt the following new subrule 200.7(6):

**200.7(6)** A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 3. Amend subrule 200.9(5) as follows:

**200.9(5)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 4. Amend subrule 200.9(7) as follows:

**200.9(7)** Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the ~~wallet-card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.13(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 5. Rescind subrule 202.2(11) and adopt the following **new** subrule in lieu thereof:

**202.2(11)** Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ITEM 6. Amend subrule 206.2(1) as follows:

**206.2(1)** The applicant shall complete a ~~board-approved~~ an application. ~~Application forms may be obtained from the board's website (www.idph.iowa.gov/licensure) or directly from the board office, or the applicant may complete the application online at ibplicense.iowa.gov. All paper applications shall be sent to the Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

ITEM 7. Amend rule 645—206.9(147) as follows:

**645—206.9(147) Licensure by endorsement.** An applicant who has been a licensed occupational therapist or occupational therapy assistant under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

1. to 6. No change.
7. Shows evidence of one of the following:
  - Completion of 30 hours for an occupational therapist and 15 hours for an occupational therapy assistant of board-approved continuing education during the immediately preceding two-year period;
  - The practice of occupational therapy for a minimum of 2,080 hours during the immediately preceding two-year period as a licensed occupational therapist or occupational therapy assistant;
  - Serving as a full-time equivalent faculty member teaching occupational therapy in an accredited school of occupational therapy for at least one of the immediately preceding two years; or
  - Successfully passing the examination within a period of two years from the date of examination to the time application is completed for licensure.

Individuals who were issued their licenses by endorsement within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 8. Amend subrule 206.10(5) as follows:

**206.10(5)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet-card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 9. Amend subrule 206.10(7) as follows:

**206.10(7)** Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the ~~wallet-card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.11(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 10. Rescind subrule 209.2(11) and adopt the following **new** subrule in lieu thereof:

**209.2(11)** Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.